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SUBJECT: UN REVAMPS ADMINISTRATION OF JUSTICE AND KEEPS THE
COST DOWN, FOR NOW

¶1. Begin Summary: The UN has adopted a resolution creating a new system of Administration of Justice (AoJ) that stresses informal dispute resolution over litigation in resolving staff grievances. It responds to most, but not all, of the Secretary General's requests and will be implemented over

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the next two years at roughly half the initial projected cost. While important issues remain to be addressed in the resumed sessions, USUN generally achieved USG objectives. End summary.

AN EXISTING SYSTEM BEYOND REPAIR

¶2. The current system under which UN employees can seek redress of grievances was conceived and instituted fifty years ago and has evolved into a system that is neither effective nor efficient. Both staff and management have lost confidence that it can meet their needs. The Redesign Panel, Secretary General (SYG), and Advisory Committee on

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Administrative and Budgetary Questions (ACABQ) each examined the system over the past year and their verdict was unanimous: the old system must go. In the fall session of the 62nd General Assembly, the Fifth Committee considered numerous strategies for effecting meaningful reform and ultimately reached consensus (A/RES/62.228) on a system that will replace the existing system over the next two years.

MORE INFORMAL DISPUTE RESOLUTION, LESS LITIGATION

¶3. The stated goal of the future AoJ system is a new, independent, transparent, professional, adequately resourced, and decentralized system of administration of justice that will ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike. It emphasizes trying to resolve grievances through an informal process. Effective January 1, 2008, the new system will significantly expand the Office of the Ombudsman, enhance professional legal assistance, and create a Mediation Division. All three offices will have representatives not only at New York headquarters but also in Geneva, Nairobi, and a few large overseas missions. A mandatory review of administrative decisions, to be conducted under tighter deadlines, will also help resolve grievances at the informal level. The intent is to restore faith in the system and provide the means for addressing grievances quickly and professionally, so that litigation is only pursued as a last resort.

¶4. USUN succeeded at this stage in arguing that access to the new system should be limited to current UN staff. However, in the AoJ resolution the GA decided to revert to the issue of the scope of the system of administration of justice at the second part of its resumed session and to request information in this regard from the SYG. USUN, along with Canada, Australia, New Zealand (CANZ), and Japan, also

argued successfully for establishing new positions at lower levels than the SYG requested (e.g., Director level instead of Assistant Secretary General, Professional Staff level instead of Director), for redeploying existing positions wherever possible, and for limiting the total number of new posts. These measures helped to reduce the projected additional costs of the new informal system.

NEW TWO-TIER FORMAL SYSTEM REPLACES UN ADMINISTRATIVE TRIBUNAL

¶4. A new formal system for adjudicating grievances unresolved through informal dispute resolution will be in place by January 1, 2009, consisting of two tiers, a Dispute Tribunal (UNDT) and an Appeals Tribunal (UNAT). (It replaces the existing UN Administrative Tribunal.) Judges for each will be appointed by the General Assembly from a list of candidates vetted and recommended by a new Internal Justice Council. Although the G-77 and EU wanted all first-tier proceedings to have three-judge panels, USUN did succeed in gaining consensus on the ACABQ recommendation that a single judge hear cases at the UNDT level. However, the resolution calls for the SYG to present further proposals on UNDT judges when the session resumes. The UNAT with three judges will convene as needed to hear appeals.

TRANSITIONAL MEASURES

¶5. There was broad but not yet universal agreement to USUN's proposal that the UN Administrative Tribunal should clear the existing backlog of cases rather than transfer them to the new system. Since it is likely to take more than a year to clear the backlog, the two systems would need to operate simultaneously for a limited period of time. USUN also obtained agreement on provisions to clarify cost-sharing arrangements with entities participating in the current system and the status of those entities should they choose not to participate in the new AoJ system. The issue of transitional arrangements will be taken up again in the resumed session.

OTHER UNFINISHED BUSINESS

¶6. Many issues, some quite complex, that could not be adequately addressed in the debate that produced the current resolution include: the mandate of the Office of Staff Legal Assistance, the role of the Internal Justice Council, jurisdiction of the UNDT and UNAT, grounds for appeal, the role of staff associations, system access by non-staff (e.g., experts), cost sharing by claimants, and additional incentives for volunteer legal representation.. The resolution requests the SYG to report on these issues so that they can be considered during the resumed sessions. In addition, the Sixth Committee is expected to consider the legal aspects of these and other matters when it meets in April.

ACTION REQUESTED

¶7. In 2008, the informal system for resolving grievances will be more accessible to UN staff members, more professional, and decentralized, increasing the chances for resolving claims without formal litigation. By 2009 a new formal system will replace the system that exists now. While much has been accomplished, much remains to be done. Post requests the bureau's views on the issues to be addressed in the resumed session. We look forward to further positive changes in the UN's administration of justice system.
Khalilzad